THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.4146 OF 2005

DATED 01st SEPTEMBER, 2006

BETWEEN

M.A.Padmanabhaiah and others.

… Petitioners

and

The District Collector, Nellore and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.4146 OF 2005

ORDER:

The three petitioners are residents of Venkatagiri town in Nellore District. Aggrieved by the attempts allegedly made by respondents 7 to 14 to raise constructions in the foreshore area of Ammavaripeta village, they made a representation on 09.02.2004 to Mandal Revenue Officer, Venkatagiri, the third respondent herein. It appears the Assistant Executive Engineer, Mandal Parishad, Venkatagiri, also submitted a report showing the levels of the Ammavaripeta tank. A reference is also made by the petitioners to the letter, dated 24.04.2004 of the Chief Engineer (PR), Hyderabad, to the Superintending Engineer (PR), Nellore, to take action against encroachments. In spite of the same, no action was taken and it appears there were alleged hectic efforts by respondents 7 to 14 to layout the plots in the area for the purpose of construction. Therefore, they filed the present writ petition seeking a direction to respondents 1 to 6 to take necessary action to prevent the occupation/construction in the foreshore submerged area of the tank.

The respondents 1 to 6 have not filed any counter affidavit, but a counter affidavit is filed by respondent No.15, who was impleaded subsequently. In the counter affidavit, it is stated that Ammavaripeta tank is comprised in survey No.215 admeasuring Acs.36.10 guntas whereas respondents 7 to 12 and 14 are in possession of the land in survey No.217. It is also alleged that respondent No.15 is the owner of land in survey No.216/3 and that all of them own patta lands and that the lands in survey Nos.216 and 217 are patta lands. The other allegations are denied.

Whether the land owned by respondent 7 to 15 is comprised in survey Nos.216 and 217 and whether the land forms part of Ammavaripeta tank or the catchment area of tank are the matters, which cannot be decided in this writ petition. According to the petitioners, after conducting inspection, the Engineering Wing of

Panchayat Raj Department has already come to the conclusion that the encroachments within the foreshore/catchment area of Ammavaripeta tank should be removed. Now that some material is before the authorities, it is a fit case where the revenue officials especially the Revenue Divisional Officer, Gudur and Mandal Revenue Officer, Venkatagiri, should take enquiry after giving notice to the petitioners, who claim to be Ayacutdars under the tank as well as other owners of the land owning plots/lands within the vicinity of the tank, and decide the matter. If it is found in the enquiry that any of the contesting respondents or other persons are in occupation of foreshore/catchment area of the tank, it is always open to the revenue officials to take appropriate action in the mater. The enquiry ordered hereinabove may be conducted and completed within a period of four months from the date of receipt of copy of this order.

The writ petition is accordingly disposed of at interlocutory stage itself with the above observations and directions. No costs.

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(V.V.S.RAO,J)

01.09.2006.
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